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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,866	11/21/2003	David Paul Limont	MS#303717.01 (5221)	3063
38779 7590 06/29/2007 SENNIGER POWERS (MSFT) ONE METROPOLITAN SQUARE, 16TH FLOOR ST. LOUIS, MO 63102			EXAMINER MIRZADEGAN, SAEED S	
			ART UNIT 2144	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary

Application No.

10/719,866

Applicant(s)

LIMONT ET AL.

Examiner

Saeed S. Mirzadegan

Art Unit

2109

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 05/05/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 05/05/2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

2. The drawings are objected to because, Fig 2. displays device 216 outside the range of wireless network 218 which is contrary to what the specifications recites . Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Method and computer program product to provide synch notifications to client devices.

Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because as recited the sentence "It should be noted that the power source 120 might further include an external power source that overrides or recharges the built-in batteries/fuel cell, such as an AC adapter or a powered docking cradle for connection to a wired network", implies that the AC adapter is being connected to the network ([¶0022] lines 8-12).

Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because the recited term "The Exchange server 202 communicates with devices 204, 206 on a wired network 208 and devices 210-216 in range of wireless network 218. As shown in FIG. 2, mobile device 216 is not in range of network 218." Is contradictory. Device 216 is either in-range of the wireless network, or out of the range of the wireless network, it can't be both.

Correction is required. See MPEP § 608.01(b).

Art Unit: 2109

6. The disclosure is objected to because the recited term "the error sync protocol" is incorrect. The Term should have been "the air sync protocol".

Correction is required. See MPEP § 608.01(b).

Claim Objections

7. Claim 22 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 20. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 11-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. More specifically, the computer readable medium recited in this claim is directed to both statutory (i.e. magnetic disks), and non-statutory (i.e. electromagnetic waves) subject matter. **Computer storage media includes volatile and nonvolatile, removable and non-removable media implemented in any method or technology for storage of information such as computer readable instructions, data structures, program modules or other data. The memory 104, the removable storage 108 and the non-removable storage 110**

Art Unit: 2109

are all examples of computer storage media. Computer storage media includes, but is not limited to, RAM, ROM, EEPROM, flash memory or other memory technology, CDROM, digital versatile disks (DVD) or other optical storage, magnetic cassettes, magnetic tape, magnetic disk storage or other magnetic storage devices, or any other medium which can be used to store the desired information and which can be accessed by the device 100. Any such computer storage media may be part of the device 100 ([¶0019] lines 15-29). The device 100 may also contain one or more communications connections 112 that allow the device to communicate with other devices. The communications connections 112 are an example of communication media. Communication media typically embodies computer readable instructions, data structures, program modules or other data in a modulated data signal such as a carrier wave or other transport mechanism and includes any information delivery media. The term "modulated data signal" means a signal that has one or more of its characteristics set or changed in such a manner as to encode information in the signal. By way of example, and not limitation, communication media includes wired media such as a wired network or direct-wired connection, and wireless media such as acoustic, RF, infrared and other wireless media. As discussed above, the term computer readable media as used herein includes both storage media and communication media ([¶0020]).

Software, per se:

Art Unit: 2109

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "the sole practical application of the algorithm was in connection with the programming of a general purpose computer.").

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

Art Unit: 2109

3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. **Claims 1-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed et al. (US PG Pub No. 20020095454) in view of Border et al. (US PG Pub No. 20020071436) and further in view of Lemke (US PG Pub No. 20050086306).

10. Regarding **Claim 1** Reed et al. disclose a method to provide a sync notification to a client device comprising the steps of:

- a. Receiving notification that an event of interest has been received; **([¶0023] lines 14-17 & [¶0207], a notification is received that meets certain criteria and therefore is of interest.)**
- b. determining if a trackingGUID (globally unique identifier) equals a syncGUID; **([¶0209] lines 7-14, the values of the two identifiers are compared.)**
- c. sending the sync notification to the client device **([¶0291] lines 45-48, the appropriate action (sync notification) is sent to the client.)**

11. Regarding **Claim 1** Reed et al. do not teach,

- d. if the trackingGUID does not equal the syncGUID: setting the trackingGUID equal to the syncGUID
- e. setting a timeout equal to the current time plus a predetermined value

Art Unit: 2109

12. In the same field of endeavor, Lemke teaches setting two id's equal to each other if they are not ([¶0131]).

13. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. Communications system and Lemke teachings as discussed about to allow for the composite bandwidth schedule to correspond to the latest possible data delivery schedule that satisfies both ID's or variables.

14. In the same field of endeavor, Border et al. teach, setting a timeout equal to the current time plus a predetermined value ([¶0239]).

15. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. Communications system and Lemke Providing background delivery of messages over a network with Border et al. teachings as discussed about to allow for setting timeouts to make certain the other end acknowledges notifications that are sent.

16. Regarding **Claim 2** Reed et al. disclose:

- f. sending the sync notification to the client device ([¶0291] lines 45-48, the appropriate action (sync notification) is sent to the client.).

g. if the trackingGUID equals the syncGUID ([¶0209] lines 7-14, the values of the two identifiers are compared.).

17. Regarding **Claim 2** neither Reed et al. nor Boarder et al. teach, the current time is greater than the timeout.

18. In the same field of endeavor, Lemke teaches the current time is greater than the timeout ([¶0131]).

19. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. Communications system and Boarder et al. Method and system for providing connection handling with Lemke teachings as discussed about to allow for the composite bandwidth schedule to correspond to the latest possible data delivery schedule that satisfies both ID's or variables.

20. Regarding **Claim 3** neither Reed et al. nor Lemke teach, setting the timeout equal to the current time plus the predetermined value.

21. Regarding **Claim 3** Border et al. disclose setting the timeout equal to the current time plus the predetermined value ([¶0239]).

Art Unit: 2109

22. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. Communications system and Lemke Providing background delivery of messages over a network with Boarder et al. teachings as discussed above for detecting that a host has died when there is data outstanding.

23. Regarding **Claim 4** Reed et al. disclose receiving a device/user configuration file having at least one of the syncGUID and the trackingGUID ([¶0209], **receives a file (communication object) with at least one id (version value).**).

24. Regarding **Claim 5** Reed et al. disclose reading the at least one of the syncGUID and the trackingGUID from the device/user configuration file ([¶0209], **reading the id (version value) of the file (communication object) by comparing the value.**).

25. Regarding **Claim 6** neither Reed et al. nor Lemke disclose predetermined value is fifteen minutes.

26. In the same field of endeavor, Border et al. teach ([¶0236], **a timer preset values ranging from minutes to hours. The value of 15 minutes it within the range specified.**).

27. It would have been obvious to one of ordinary skill in the art at the time of

Art Unit: 2109

applicant's invention to combine Reed et al. communications system and Lemke

Providing background delivery of messages over a network with Border et al. teachings as discussed above to allow for detecting that a host has died when there is data outstanding.

28. Regarding **Claim 7** neither Reed et al. nor Lemke disclose predetermined value is in the range of one to two hours.

29. In the same field of endeavor, Border et al. teach ([¶0236], **a timer preset values ranging from minutes to hours. Therefore this includes range of 1 to 2 hours.**).

30. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. communications system and Lemke Providing background delivery of messages over a network with Border et al. teachings as discussed above to allow for detecting that a host has died when there is data outstanding.

31. Regarding **Claim 8** Reed et al. disclose wherein the step of sending the sync notification comprises sending the sync notification using the SMTP (simple mail transfer protocol) protocol ([¶0023], **sending the notification via email. Therefore the protocol of transmission is SMTP.**)

32. Regarding **Claim 9** Reed et al. disclose determining if the client device has received the event of interest (**[¶0292], receiving an acknowledgement message that indicates that the client received the event of interest.**).

33. Regarding **Claim 10** Reed et al. disclose the steps of:

h. Receiving notification that an event of interest has been received comprises the step of receiving a trigger event (**[¶0291] line 46) notification is triggered as a result of an event.**).

34. **Claims 11-13,17-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed et al. in view of Lemke.

35. Regarding **Claim 11** Reed et al. disclose, at least one computer readable medium (**[¶0029], [¶0548]**) having computer executable instructions for providing a sync notification to a client device, the computer executable instructions performing the steps of:

i. receiving notification that an event of interest has been received; (**[¶0023] lines 14-17 & [¶0207] a notification is received that meets certain criteria and therefore is of interest.**).

j. sending the sync notification to the client device (**[¶0291] lines 45-48, the appropriate action (sync notification) is sent to the client.**).

Art Unit: 2109

k. if the trackingGUID equals the syncGUID ([¶0209] lines 7-14, the values of the two identifiers are compared.).

36. Regarding **Claim 11** Reed et al. do not teach,

l. the current time is greater than a timeout.

37. In the same field of endeavor, Lemke teaches the current time is greater than the timeout ([¶0131]).

38. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. Communications system with Lemke teachings as discussed about to allow for the composite bandwidth schedule to correspond to the latest possible data delivery schedule that satisfies both ID's or variables.

39. Regarding **Claim 12** Reed et al. disclose performing the steps comprising sending the sync notification to the client device sending the sync notification to the client device ([¶0291] lines 45-48, the appropriate action (sync notification) is sent to the client.).

40. Regarding **Claim 12** Reed et al. do not teach,

m. if the trackingGUID does not equal the syncGUID: setting the trackingGUID equal to the syncGUID

Art Unit: 2109

- n. setting a timeout equal to the current time plus a predetermined value

41. In the same field of endeavor, Lemke teaches setting two id's equal to each other if they are not ([¶0131]).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. Communications system and Lemke teachings as discussed about to allow for the composite bandwidth schedule to correspond to the latest possible data delivery schedule that satisfies both ID's or variables.

42. In the same field of endeavor, Border et al. teach, setting a timeout equal to the current time plus a predetermined value ([¶0239]).

43. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. Communications system and Lemke Providing background delivery of messages over a network with Border et al. teachings as discussed about to allow for setting timeouts to make certain the other end acknowledges notifications that are sent.

44. Regarding **Claim 13** Reed et al. disclose performing the steps comprising determining if the trackingGUID equals the syncGUID ([¶0209] lines 7-14, **determining if the values of the two identifiers are equal by comparing them.**).

45. **Claims 14-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed et al. and further in view of Lemke as applied to claim 11 above and further in view of Border et al.

46. Regarding **Claim 14** neither Reed et al. nor Lemke disclose performing the step comprising setting a timeout equal to the current time plus a predetermined value.

47. In the same field of endeavor, Border et al. teach, setting a timeout equal to the current time plus a predetermined value ([¶0239]).

48. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. Communications system and Lemke Providing background delivery of messages over a network with Border et al. teachings as discussed above to allow for setting timeouts to make certain the other end acknowledges notifications that are sent.

49. Regarding **Claim 15** neither Reed et al. nor Lemke disclose predetermined value is fifteen minutes.

50. In the same field of endeavor, Border et al. teach ([¶0236], **a timer preset values ranging from minutes to hours. The value of 15 minutes is within the range**

specified.).

51. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. communications system and Lemke Providing background delivery of messages over a network with Border et al. teachings as discussed above to allow for detecting that a host has died when there is data outstanding.

52. Regarding **Claim 16** neither Reed et al. nor Lemke disclose predetermined value is in the range of one to two hours.

53. In the same field of endeavor, Border et al. teach ([¶0236], **a timer preset values ranging from minutes to hours. Therefore this includes range of 1 to 2 hours.**).

54. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Reed et al. communications system and Lemke Providing background delivery of messages over a network with Border et al. teachings as discussed above to allow for detecting that a host has died when there is data outstanding.

Art Unit: 2109

55. Regarding **Claim 17** Reed et al. disclose performing the step comprising receiving a device/user configuration file having at least one of the syncGUID and the trackingGUID ([¶0209], **receives a file (communication object) with at least one id (version value).**).

56. Regarding **Claim 18** Reed et al. disclose performing the step comprising reading the at least one of the syncGUID and the trackingGUID from the device/user configuration file ([¶0209], **reading the id (version value) of the file (communication object) by comparing the value.**).

57. Regarding **Claim 19** Reed et al. disclose sending the sync notification using the SMTP (simple mail transfer protocol) protocol ([¶0023], **sending the notification via email. Therefore the protocol of transmission is SMTP.**)

58. Regarding **Claim 20& 22** Reed et al. disclose determining if the client device has received the event of interest ([¶0292], **receiving an acknowledgement message that indicates that the client received the event of interest.**).

59. Regarding **Claim 21** Reed et al. disclose the step of Receiving notification that an event of interest has been received comprises the step of receiving a trigger event ([¶0291] line 46) **notification is triggered as a result of an event.**).

Conclusion

60. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen et al. US PG Pub. No. 20030055825, teach System and method for resolving conflicts detected during a synchronization session, and Kloba et al. US. PAT. NO. 7000032 teach System, method, and computer program product for syncing to mobile devices.

61. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed S. Mirzadegan whose telephone number is 571-270-3044. The examiner can normally be reached on M-F 8:00-5:00.

62. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on 571-272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2109

63. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SSM

A handwritten signature in black ink, appearing to read "Patrick Assouad", with a stylized flourish at the end.

**PATRICK ASSOUD
SUPERVISORY PATENT EXAMINER**